

STATE OF VERMONT

HUMAN SERVICES BOARD

In re) Fair Hearing No. T-04/08-165
)
 Appeal of)

INTRODUCTION

The petitioner appeals the Decision by the Department for Children and Families, Economic Services Division terminating her eligibility for fuel assistance. The issue is whether the appeal should be dismissed for mootness and failure to prosecute. The following procedural history is not in dispute.

DISCUSSION

The petitioner was granted fuel assistance in March 2008 based on tardy verification of information the petitioner had alleged on her application in September 2007, which had initially been denied in December 2007. However, on March 12, 2008 the Department terminated fuel assistance payments to the petitioner's fuel dealer when it learned that the petitioner had a previously undisclosed IRA account of over \$10,000.

The petitioner's legal representative filed a request for fair hearing in the petitioner's behalf on April 11, 2008. She alleged that the petitioner had spent the entire

amount of her IRA on "debts" and had been forced to move out of her home due to lack of heat.

A hearing was held on May 9 2008 at which time the petitioner's representative agreed that the petitioner would apply for General Assistance (GA) to meet her alleged current emergency, and that she would file a written legal argument regarding the petitioner's continuing eligibility for fuel assistance.

When nothing was received by the Board the matter was scheduled for a telephone status conference on July 11, 2008. At that conference the parties agreed that the petitioner had been found eligible for GA pending receipt of SSI, and that the petitioner would file any remaining legal argument by July 25, 2008. This deadline was subsequently continued indefinitely due to medical problems of the petitioner's representative.

A telephone status conference was held on November 7, 2008, at which time the petitioner's representative stated that despite her repeated efforts she has been unable to communicate with the petitioner for several months, and thus is unable to provide any further argument in the petitioner's behalf.

The Department represents, and the petitioner's representative does not dispute, that the petitioner has

suffered no direct financial loss or indebtedness as a result of the Department having terminated fuel assistance payments to her provider in March 2008.¹ The Department further represents that the petitioner can reapply for fuel assistance at any time using this or any other fuel provider.

The petitioner has been personally notified of all hearings and status conferences in this matter and has not contacted the Board since the inception of this appeal filed in her behalf by her representative.

ORDER

Inasmuch as the petitioner's representative admits that she is unable to prosecute this matter in the petitioner's behalf, and there being no ongoing issue regarding the petitioner's eligibility for fuel assistance or claim by the petitioner for reimbursement of any past benefits payable to her, her appeal must be dismissed. Fair Hearing Rule No. 1000.3L.

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¹ The only conceivable relief the petitioner could claim at this time would appear to be for personal "damages" caused by the Department's termination of payments to her fuel dealer. Such a claim would have to be pursued in court as it is clearly beyond the Board's jurisdiction to consider. 3 V.S.A. § 3091(a).